

## **Questions and answers about the Capitol use rules**

General Administration is responsible for the care and control of the Capitol Campus buildings and grounds. This includes about 50 buildings, four parks and Capitol Lake.

The department launched a review of existing rules that govern use of the public areas of the Capitol Campus in response to several factors, including significant increases in the number and size of events; increased sensitivity to security; and current statutory and code requirements related to safety and accessibility.

The new rules were developed with the intention of clarifying how General Administration would consider appropriate time, place and manner criteria in evaluating and approving requests for use of the public areas of the Capitol Campus.

The department issued draft rules in July 2009 and solicited public comment through October 1.

Some of the comments raised issues about unclear language. General Administration has revised some of the rules with the goal of making them easier to understand.

The new rules establish how General Administration will consider reasonable time, place and manner criteria in authorizing the use of the public areas of the Capitol buildings and grounds by the public for free speech and assembly activities. The rules also establish criteria for commercial and private activities.

The director of General Administration signed the final rules on October 30, 2009. The new rules become effective December 1, 2009.

**Special note:** Permit applications received from October 30 through November 30 will be considered under the interim policy, which remains in effect until December 1, 2009.

### **Key elements of the new rules that take effect December 1, 2009:**

- Private exhibits and displays are allowed on the Capitol Campus grounds, but not in campus buildings. Displays and exhibits are subject to reasonable time, place and manner restrictions. The maximum timeframe for private exhibits and displays is 14 days.
- No permit is necessary for free speech and assembly activities involving fewer than 25 people inside a building or fewer than 75 people on the grounds.
- Activity sponsors must apply to General Administration for a permit at least two working days before the planned date of the activity. Weekends and holidays are not considered working days.
- General Administration will process permit applications on a first-come, first-served basis.
- There is no fee for a permit for free speech and assembly activities.
- Applications may be submitted up to a year in advance of the planned activity.

- The department will approve or deny an application within two working days from the date of receipt. Weekends and holidays are not considered working days.

### **What changes were made for the final rules?**

Based on public comments, 12 changes were adopted for the final rules. These are noted below:

#### **1. Banners and signs defined**

The proposed rules prohibited all non-governmental banners and signs inside a building unless they were handheld. In our initial proposal, the term “banners and signs” was not defined. Some comments requested clarification whether this restriction applied to flags and directional signage.

In response, General Administration added a definition of banners and signs, exempted government-recognized flags from the definition, and clarified that way-finding signage may be allowed.

#### **2. Medical equipment allowed**

The final rules clarify the definition of exhibits and displays to allow the use of medical equipment in performing medical and therapeutic services, such as a blood drive, massage or administering flu shots.

#### **3. Clarification about intentions or expectations of applicants**

Public comment expressed concern that the state was unnecessarily speculating on the intentions of the activity organizer, which might lead to inconsistent application of the rules. Our interest was to ensure we could manage the volume of activities, not to speculate as to the likely size of an activity. Applicants are responsible for informing us how many people they estimate will attend their activity, and we will base our permitting decisions on the information provided. For clarification, the state removed the references to the intentions of an applicant.

#### **4. Permit requirements clarified regarding number of people at an activity**

The proposed rules would have required an applicant to get a permit whenever a free speech and assembly activity involved 25 or more people, regardless of location. Several people commented that this requirement seemed restrictive for activities on campus grounds where ample space exists to accommodate large crowds. General Administration clarified the rule to provide two permit requirement thresholds for free speech and assembly activities:

- 25 for activities inside buildings.
- 75 people for activities on the grounds.

#### **5. Clarification about working days for submitting permit application**

The proposed rules included several references to the term “*working days*” when describing deadlines for submitting applications, reviews of denied requests and other steps in the permitting process. Some people commented that the term was unclear. The term “working days” is more fully defined in the revised text, noting that Saturday, Sunday and state holidays were not included as “working days.”

## **6. Maximum advance application time changed to one year**

The earliest date you may apply for an activity permit is now one year. Public comment indicated that the proposed 120-day timeframe was insufficient.

## **7. Spontaneous gatherings need no permit**

Several comments noted that significant events or news may prompt a spontaneous gathering of individuals that cannot meet the two-day advance permit process. Such gatherings are a protected form of free speech and assembly.

It was not our intent to imply that such gatherings are prohibited by our rules. We have clarified the rule to provide guidance for spontaneous gatherings. A permit is not necessary, but we do require at least two hours advance notice so that we can manage any potential conflicts with other permitted activities.

## **8. Application information changes for notification purposes**

Public comment noted that many people receive mail at locations other than their listed street addresses, so we changed the rule to ask applicants for their mailing address.

## **9. Clarification about disruptive or obstructive activities**

Concerns arose that the proposed rules gave the state discretion to deny or revoke a permit due to minor disruption of government activities or momentary obstructions. The rule has been clarified to note that activities may not “unreasonably” disrupt or conflict with the normal conduct of state government business.

## **10. Clarification regarding fund-raising activities**

Concerns were raised about whether our proposed rules restricted fund-raising activities to support ongoing advocacy and messaging that are an integral part of free speech and assembly activities. The rule was clarified to ensure it applies only to private and commercial sales, solicitation and fund-raising activities.

## **11. Clarification about identification of sponsors**

The proposed rule required banners, signs, exhibits or displays placed on the capitol grounds to “clearly” identify the item’s sponsor. Some comments expressed concern that “clearly” could be interpreted subjectively, potentially leading to inconsistent permitting decisions. To avoid any ambiguity, the rules have been revised to remove the word “clearly.”

## **12. Ability eliminated for state to waive or exempt time requirements for permits**

The final rule eliminates the ability of the director of General Administration to waive the time requirements for an activity. Public comment expressed concerns that the ability to waive the requirements gave the state too much discretion in processing applications for permits.

October 30, 2009